IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION ST.NO.7230 OF 2006
WITH
APPEAL FROM ORDER ST. NO.7222 OF 2006

Spurti Co-op. Housing Society Ltd. ..Applicants.

V/s.

Kamruddin N. Shaikh & Ors. ..Respondents.

Mr.Rajiv Narula with Dasgupta for applicants.

Mr.Pradip Sancheti a/w Shriniwas Deshmukh i/b. Mrs.Meena Fulbandhe for respondent No.1.

Mr.Deepen Merchant i/b. S.M.Khaire for respondent No.2.

Mr.G.S.Godbole for Mrs.A.K.Trivedi for respondent Nos.3 to 5.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 7, 2006.

P.C. :

1. Heard counsel for the parties.

2. Perused the pleadings in respect of the relief of condonation of delay in filing appeal. Delay as computed by the office is about 90 days. This application is opposed by the respondents on the argument that the applicant has not filed any proceeding for substantive relief and cannot be allowed to complain about the correctness of the order, which is impugned in this appeal. It is also

submitted that the applicant society is not in possession. These objections are of no relevance for deciding the issue whether the application for condonation of delay should be granted or refused. In my opinion, however, sufficient cause has been made out in the application. Besides, the impugned Judgment is already subject matter of challenge in cognate Appeal from Order No.48 of 2006. Thus understood, no prejudice would be caused to the respondents who are opposing the prayer for condonation of delay as all these aspects will have to be considered in the pending appeal.

. Accordingly, in the interest of justice, delay in filing appeal from order by the applicant society is condoned. Appeal from order St.No.7222 of 2006 be numbered. If there is any office objection, that be removed within two weeks from today, failing which appeal to stand dismissed for non-prosecution without further reference to the Court. If appeal is numbered, the same be heard alongwith Appeal from Order No.48 of 2006. Counsel appearing for the respective parties(respondents) waived notice in both the appeals.

3. As interim order is already passed in cognate

appeal, no further interim orders are necessary in the present appeal.